IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 5508 of 2001

DATED: 21.12.2001

Between:

Ch.S.Naidu petitioner

And

APSRTC,
By its Managing Director,
Musheerabad, Hyderabad & ors Respondents

THE HON'BLE SRI JUSTICE N.V.RAMANA

WRIT PETITION NO. 5508 OF 2001

ORAL ORDER:

This writ petition is filed seeking Writ of *Mandamus* declaring the action of the respondents in passing the impugned order dated 28.9.1993 imposing punishment of deferment of annual increment for a period of nine months with cumulative effect as confirmed by the Appellate Authority and Revisional Authority vide proceedings dated 16.12.1996 and 4.8.1999 respectively.

The case of the petitioner is that he is employed as Conductor in the respondent corporation. While so, on 11.2.1992 a check was exercised and a charge memo was issued to the petitioner alleging cash and ticket irregularities. The petitioner submitted his explanation and having not satisfied with the same, a charge sheet dated 28.9.1993 was issued to the petitioner. The petitioner submitted his explanation dated 26.6.1992 denying the charges leveled against him. However, without considering the same, and without conducting any enquiry, the impugned final orders were passed imposing punishment of deferment of annual increment for a period of nine months with cumulative effect. The appeal and revision preferred by the petitioner was rejected by order dated 16.12.1996 and 4.8.1999 respectively. Hence, the present writ petition questioning the action of the respondents in imposing the major punishment without conducting a departmental enquiry.

Learned counsel for petitioner contends that punishment of deferment of increments for a period of one year with cumulative effect is a major penalty and the same cannot be imposed without conducting regular departmental enquiry as contemplated under the APSRTC Employees' (CC & A) Regulations. In support of his

contention, he placed reliance on judgment of the Supreme Court in KULWANTH SINGH GILL Vs. STATE OF PUNJAB[1]. Learned counsel for petitioner also relied on a judgment of this Court in W.P. No. 20609 of 1999 dated 7.12.2005 which is in a similar background of facts and circumstances.

On the other hand, learned Standing Counsel appearing on behalf of the respondents-corporation vehemently opposed the said contention and submitted that respondent No.3 after careful consideration of the entire evidence available on record together with the explanation submitted by the petitioner, has passed the impugned order, which was confirmed by both the Appellate and Review Authorities and hence, no reasons to interfere with the same. Learned Standing Counsel for respondent corporation sought adjournment on the ground that as against similar matters in W.A. Nos. 340 of 2006 and batch, the matter was carried in appeal to Supreme Court in Special Leave to Appeal (Civil) No. 18306 of 2006 and the same is pending.

Heard the learned counsel for petitioner and learned Standing Counsel for respondent Corporation.

A copy of the order dated 1.12.2006 passed by the Supreme Court in Special Leave to Appeal (Civil) Nos. 18306 of 2006 is produced before the Court, which discloses that notice was ordered on the Special Leave Petition as well as on the prayer for interim relief. Since, no interim orders were passed by the Supreme Court, I see no reason to keep the matter pending and deem it appropriate to proceed with the matter.

It is an admitted fact that the respondent imposed punishment of deferment of annual increment with cumulative effect, which is a major punishment. Admittedly, no regular departmental enquiry was conducted though the charge sheet was issued to the petitioner before imposing the penalty. The Apex Court in KULWANTH SINGH GILL'S CASE (cited supra) held that stoppage of increments with cumulative effect is a major penalty and it cannot be imposed without conducting the departmental enquiry. Since the punishment of stoppage of annual

increment was imposed without conducting regular departmental enquiry violating the judgment of Apex Court, the impugned order cannot be sustained.

In the ordinary course of things, the impugned order needs to be set aside leaving it open to respondent to pass fresh orders. But to avoid further litigation in the matter, I deem it appropriate to dispose of the writ petition with the following direction.

The impugned order dated 28.9.1993 passed by the third respondent imposing the punishment of stoppage of annual increment with cumulative effect as confirmed by Appellate and Review Authorities by proceedings dated 16.12.1996 and 4.8.1999, is modified to that of stoppage of one increment without cumulative effect. The petitioner shall not be entitled to any monetary benefits arising out of this order, but shall be entitled to fixation of pay only.

Accordingly, the writ petition is disposed of. No costs.

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N.V.RAMANA,J

DATE: 21.12.2006
TVK

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[1] 1990 (1) LLJ 635